

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, *et al.*

Plaintiffs,

v.

TYSON FOODS, INC., *et al.*

Defendants.

)
)
)
)
)
)
)
)
)
)

Case No. 05-CV-0329 GKF-PJC

**DEFENDANTS' MOTION TO LIFT STAY
OF MOTION FOR ATTORNEY FEES, DKT 1729**

Defendants move this Court to lift the stay on their pending motion for attorneys' fees, Dkt. No. 1729. In support of this Motion, Defendants show the Court as follows:

1. On May 20, 2008, Magistrate Judge Joyner granted Defendants' Motion to Compel Plaintiffs' Compliance with the Court's Order on Data Production and granting sanctions in the form of attorneys' fees and costs. See Order at Dkt. No. 1710 (the "Sanctions Order").
2. On June 4, 2008, Plaintiffs filed their Objections to the Magistrate Judge's Sanctions Order. See Objection at Dkt. No. 1716.
3. On June 19, 2008, Defendants filed their Motion for Attorneys' Fees and Affidavits, as directed by the Sanctions Order.
4. On November 24, 2008, Magistrate Judge Joyner entered an Order staying Defendants' motion for attorneys' fees pending resolution of Plaintiffs' appeal of the Sanctions Order. Dkt. No. 1806. The November Order further directed Defendants to file a motion to lift the stay or a motion to withdraw their application for attorneys' fees within 10 days of entry of an order on the Plaintiffs' appeal. See Order at Dkt. No. 1806.

5. On February 18, 2009, Judge Frizzell overruled Plaintiffs' appeal of the Sanctions Order. Dkt. No. 1871.

6. Defendants' Motion for Attorneys' Fees was addressed at hearings before Magistrate Judge Cleary on February 26, 2009 and March 2, 2009. During the March 2, 2009 hearing, Plaintiff's counsel requested the opportunity to resolve this matter with Defendants' counsel without further intervention from the Court. Defendants' counsel agreed to meet and confer with Plaintiffs' counsel. In the meantime, Defendants file this motion to lift the stay for the sole purpose of complying with Magistrate Judge Joyner's November 24, 2008 Order. Defendants intend to take no further action until such a meet and confer can take place.

Respectfully submitted,

RHODES, HIERONYMUS, JONES,
TUCKER & GABLE, PLLC

BY: s/ John H. Tucker
JOHN H. TUCKER, OBA #9110
COLIN H. TUCKER, OBA #16325
THERESA NOBLE HILL, OBA #19119
100 W. Fifth Street, Suite 400 (74103-4287)
P.O. Box 21100
Tulsa, Oklahoma 74121-1100
Telephone: 918/582-1173
Facsimile: 918/592-3390
And
DELMAR R. EHRICH
BRUCE JONES
FAEGRE & BENSON LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, Minnesota 55402
Telephone: 612/766-7000
Facsimile: 612/766-1600
ATTORNEYS FOR CARGILL, INC. AND CARGILL TURKEY
PRODUCTION LLC

CERTIFICATE OF SERVICE

I certify that on the 2nd day of March, 2009, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

W. A. Drew Edmondson, Attorney General	drew_edmondson@oag.state.ok.us
Kelly Hunter Burch, Assistant Attorney General	kelly_burch@oag.state.ok.us
J. Trevor Hammons, Assistant Attorney General	trevor_hammons@oag.state.ok.us
Daniel Lennington, Assistant Attorney General	Daniel.lennington@oag.ok.gov

Melvin David Riggs	driggs@riggsabney.com
Joseph P. Lennart	jlennart@riggsabney.com
Richard T. Garren	rgarren@riggsabney.com
Sharon K. Weaver	sweaver@riggsabney.com
Robert Allen Nance	rnance@riggsabney.com
Dorothy Sharon Gentry	sgentry@riggsabney.com
David P. Page	dpage@riggsabney.com
Riggs Abney Neal Turpen Orbison & Lewis, P.C.	

Louis W. Bullock	lbullock@mkblaw.net
J. Randall Miller	rmiller@mkblaw.net
Miller Keffer & Bullock Pedigo LLC	

William H. Narwold	bnarwold@motleyrice.com
Elizabeth C. Ward	lward@motleyrice.com
Frederick C. Baker	fbaker@motleyrice.com
Lee M. Heath	lheath@motleyrice.com
Elizabeth Claire Xidis	cxidis@motleyrice.com
Fidelma L Fitzpatrick	ffitzpatrick@motleyrice.com
Motley Rice LLC	

COUNSEL FOR PLAINTIFFS

Stephen L. Jantzen	sjantzen@ryanwhaley.com
Paula M. Buchwald	pbuchwald@ryanwhaley.com
Patrick Michael Ryan	pryan@ryanwhaley.com
Ryan, Whaley & Coldiron, P.C.	

Mark D. Hopson	mhopson@sidley.com
Jay Thomas Jorgensen	jjorgensen@sidley.com
Timothy K. Webster	twebster@sidley.com
Gordon D. Todd	gtodd@sidley.com
Sidley Austin LLP	

L Bryan Burns
Robert W. George

bryan.burs@tyson.com
robert.george@tyson.com

Michael R. Bond
Erin W. Thompson
Dustin R. Darst
Kutack Rock LLP

michael.bond@kutackrock.com
erin.thompson@kutackrock.com
dustin.dartst@kutackrock.com

COUNSEL FOR TYSON FOODS, INC., TYSON POULTRY, INC., TYSON CHICKEN, INC.; AND COBB-VANTRESS, INC.

R. Thomas Lay
Kerr, Irvine, Rhodes & Ables

rtl@kiralaw.com

Jennifer S. Griffin
Lathrop & Gage, L.C.

jgriffin@lathropgage.com

COUNSEL FOR WILLOW BROOK FOODS, INC.

Robert P. Redemann
Lawrence W. Zeringue
David C. Senger
Perrine, McGivern, Redemann, Reid, Berry & Taylor, PLLC

rredemann@pmrlaw.net
lzingue@pmrlaw.net
dsenger@pmrlaw.net

Robert E. Sanders
E. Stephen Williams
Young Williams P.A.

rsanders@youngwilliams.com
steve.williams@youngwilliams.com

COUNSEL FOR CAL-MAINE FOODS, INC. AND CAL-MAINE FARMS, INC.

George W. Owens
Randall E. Rose
The Owens Law Firm, P.C.

gwo@owenslawfirmmpc.com
rer@owenslawfirmmpc.com

James M. Graves
Gary V. Weeks
Woody Bassett
K.C. Dupps Tucker
Bassett Law Firm

jgraves@bassettlawfirm.com
gweeks@bassettlawfirm.com
wbassett@bassettlawfirm.com
kctucker@bassettlawfirm.com

COUNSEL FOR GEORGE'S INC. AND GEORGE'S FARMS, INC.

John R. Elrod
Vicki Bronson
Bruce W. Freeman
P. Joshua Wisley
Conner & Winters, LLLP

jelrod@cwlaw.com
vbronson@cwlaw.com
bfreeman@cwlaw.com
jwisley@cwlaw.com

COUNSEL FOR SIMMONS FOODS, INC.

A. Scott McDaniel
Nicole M. Longwell
Philip D. Hixon
Craig Mirkes
McDaniel, Hixon, Longwell & Acord, PLLC

smcdaniel@mhla-law.com
nlongwell@mhla-law.com
phixon@mhla-law.com
cmirkes@mhla-law.com

Sherry P. Bartley
Mitchell Williams Selig Gates & Woodyard
COUNSEL FOR PETERSON FARMS, INC.

sbartley@mwsqw.com

Michael D. Graves
Dale Kenyon Williams, Jr.
COUNSEL FOR CERTAIN POULTRY GROWERS

mgraves@hallestill.com
kwilliams@hallestill.com

I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following who are not registered participants of the ECF System:

Thomas C. Green
Sidley Austin Brown & Wood LLP
1501 K Street NW
Washington, DC 20005
**COUNSEL FOR TYSON FOODS,
INC., TYSON POULTRY, INC.,
TYSON CHICKEN, INC.; AND
COBB-VANTRESS, INC.**

s/ John H. Tucker